

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

JUL 27 1993

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In re Application of )

AURIO A. MATOS )

LLOYD SANTIAGO-SANTOS )  
and LOURDES RODRIGUEZ BONET )For Construction Permit for a )  
New Station on Channel 293A in )  
Culebra, Puerto Rico )

MM Docket No. 93-89

File No. BPH-911114MS

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To: Honorable Joseph P. Gonzalez  
Administrative Law JudgeOPPOSITION TO PETITION TO ENLARGE ISSUES

Lloyd Santiago-Santos and Lourdes Rodriguez Bonet ("Santos and Bonet"), by their counsel and pursuant to §§1.45(a) and 1.229(d) of the Commission's Rules, oppose the Petition to Enlarge Issue ("Petition") filed by Aurio A. Matos ("Matos" or the "Petitioner") on July 12, 1993.

In support, the following is respectfully shown:

The Petition is Untimely

1. Matos claims that the Petition was timely filed in accordance with §1.229(b)(3) because it was "filed within 15 days of the taking of the depositions of Santiago and Rodriguez." Petition at ¶1. Yet Santos and Bonet submitted their initial documents to Matos on May 3, 1993, including the financial statements of persons identified in the

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application as those providing loans. Matos did not request supplemental documents. See Eve Ackerman, 8 FCC Rcd \_\_\_\_\_ (1993), which stands for the proposition that an applicant must present a petition regarding his opponent's qualifications as early as possible. Matos should have raised his documentation issue at least within 15 days of May 3, 1993, the date of the standard document production. If there is anything to the documentation claim, Matos was on notice as early as May 3, 1993. Likewise, Matos was aware of the financial proposal of Santos and Bonet on May 3, 1993. Any petition seeking a financial qualification issue should have been filed promptly after the document exchange. The instant petition is some 60 days late.

**The Petition Does Not Make A  
Prima Facie Showing**

2. The Petition seeks the addition of the following issues:

- a. Whether Santos and Bonet had in place the necessary documentation when they certified their financial qualifications.
- b. Whether Santos and Bonet are financially qualified.
- c. Whether in light of evidence adduced pursuant to the foregoing, Santiago and Rodriguez are basically qualified to be Commission licensees.

3. With respect to the "documentation" issue, Santos and Bonet had the supporting documentation available at the

time they filed the application. They had the financial statements of those parties which would lend them the funds. They had estimates of costs of construction and equipment. All these documents were provided in the standard document production produced on May 3, 1993.

4. Matos does not identify a single document required to support certification of financial qualifications which Santos and Bonet did not have in place. In any event, failure to have documents in place pursuant to instructions for Section III of the Form 301 in and of itself is not a basic issue. To the extent that the so-called "documentation issues is subsumed in the sought after financial qualification issues, it is addressed below.

5. In their Statement of Financial Condition for the year ending December 31, 1991, Santos and Bonet listed their assets as \$248,500.00 and their liabilities as \$148,000.00, including \$85,000.00 long term debt. Their cash is listed as \$35,000.00. \$30,000.00 is listed as due them from El Periodico del Norte. In the latter case, "due from" means a line of credit available to Lloyd Santiago-Santos without restriction for \$30,000.00 as owner of El Periodico del Norte.

6. Santos and Bonet have estimated the cost of construction and operation to be \$125,000. The funds to meet this estimate are to come from loans from family members (\$60,000.00) and from the applicant's own resources

(\$65,000.00). The challenge is aimed only at the applicant's \$65,000.00 commitment, and the requested issue, addresses "whether Santos and Bonet are financially qualified:" It speaks to the current financial qualifications of the applicant.

7. The focus, therefore, is the present ability of the applicants to provide \$65,000.00 against the \$125,000 construction and operation estimates. The 1991 statement accurately represents the current financial condition of Santos and Bonet. This statement shows \$35,000.00 on deposit. Enclosed as Exhibit 1 is verification of the \$30,000.00 line of credit (this is referenced as "due from El Periodico" on financial statement). Thus, Santos and Bonet currently have available the funds to meet their \$65,000.00 commitment. Santos and Bonet are clearly financially qualified.

8. In connection with the issue of whether Santos and Bonet are presently financially qualified. Matos has not presented any evidence that would indicate that Santos and Bonet are not currently financially qualified. See Section 1.229(d) of the Rules which states that the petition must contain specific allegations of fact, supported by affidavits of a person or persons having personal knowledge thereof, sufficient to support the action requested. Having presented no such evidence, the requested issue must be rejected. The Commission will not specify a financial issue

merely on the basis of Petitioner's skepticism or surmise about a source of funds. F.E.M. Ray, Inc., 6 FCC Rcd. 4238 (Rev. Bd. 1991), aff'd in pertinent part, 7 FCC Rcd. 848 (¶ 5) (1992), recon. den., 7 FCC Rcd. 4606 (1992).

Conclusion


9. Not only is Matos' request untimely filed, but it failed to make the prima facie showing of substantial and material questions of fact concerning Santos and Bonet's financial qualifications as required for designation of a financial issue. See, Gencom, Inc. v. FCC, 832 F.2d 171 (D.C. Cir. 1987).

**WHEREFORE**, in light of the foregoing, Santos and Bonet respectfully request that the Presiding Judge deny the Petition to Enlarge Issues filed by Matos.

Respectfully submitted,

LLOYD SANTIAGO-SANTOS  
AND  
LOURDES RODRIGUEZ BONET

By:

  
David L. Hill  
Audrey P. Rasmussen  
Their Attorneys

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Dated: July 27, 1993

3949h



July 23, 1993

GENTLEMEN:

This is to inform that Lloyd Santiago Santos has total and unconditional use of the line of credit available from El Periódico del Norte, for whatever personal purpose he understand necessary.

Very truly yours,

Manuel Santiago Santos  
Director



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July 23, 1993  
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Arecibo, Puerto Rico

DECLARATION

We, Lloyd Santiago-Santos and Lourdes Rodriguez Bonet, under penalty of perjury, do hereby state the following:

1. We have read the foregoing Opposition to Petition on to Enlarge Issues.
2. The facts stated therein are true and correct to the best of our knowledge and belief.

Lloyd Santiago Santos

Lloyd Santiago-Santos

Lourdes Rodriguez Bonet

Lourdes Rodriguez Bonet

Executed on July 27, 1993.

**CERTIFICATE OF SERVICE**

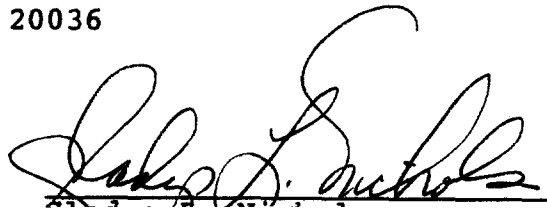
I, Gladys L. Nichols, do hereby certify that on this 27th day of July, 1993, the foregoing **OPPOSITION TO PETITION TO ENLARGE ISSUES** was served to the following persons by First Class Mail:

\* Honorable Joseph P. Gonzalez  
Administrative Law Judge  
Federal Communications Commission  
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